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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 GERALD DEAN KEELER, Sr.,
12 CDCR #P-98764,

13 Plaintiff,

14 vs.
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16
17 JOHN SEVEK, et al.,

18 Defendants.
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Civil No. 08-0206 JLS (JMA)

ORDER:

(1) **DISMISSING CIVIL ACTION
AS DUPLICATIVE PURSUANT TO
28 U.S.C. § 1915A(b)(1); and**

(2) **DENYING MOTION TO PROCEED
IN FORMA PAUPERIS AS MOOT
[Doc. No. 2]**

21
22 Plaintiff, a state inmate currently incarcerated at the Sierra Conservation Center located
23 in Jamestown, California and proceeding pro se, has filed a civil rights Complaint pursuant to
24 42 U.S.C. §1983. Plaintiff has not prepaid the \$350 filing fee mandated by 28 U.S.C. § 1914(a);
25 instead, he has filed a Motion to Proceed *In Forma Pauperis* (“IFP”) pursuant to 28 U.S.C.
26 § 1915(a) [Doc. No 2].

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1 **I. Sua Sponte Screening Pursuant to 28 U.S.C. § 1915A(b)**

2 The Prison Litigation Reform Act (“PLRA”), 28 U.S.C. § 1915A, obligates the Court to
3 review complaints filed by anyone “incarcerated or detained in any facility who is accused of,
4 sentenced for, or adjudicated delinquent for, violations of criminal law or the terms or conditions
5 of parole, probation, pretrial release, or diversionary program,” “as soon as practicable after
6 docketing” and regardless of whether the prisoner prepays filing fees or moves to proceed IFP.
7 See 28 U.S.C. § 1915A(a), (c). The Court must sua sponte dismiss prisoner complaints, or any
8 portions thereof, which are frivolous, malicious, or fail to state a claim upon which relief may
9 be granted. 28 U.S.C. § 1915A(b); *Resnick v. Hayes*, 213 F.3d 443, 446-47 (9th Cir. 2000).

10 Plaintiff’s instant Complaint is subject to sua sponte dismissal pursuant to 28 U.S.C.
11 § 1915A(b)(1) because it appears to be duplicative of a case Plaintiff is already litigating.
12 Plaintiff’s Complaint contains identical claims that are found in *Keeler v. County of San Diego*,
13 S.D. Cal. Civil Case No. 08-0076 JAH (PCL). A court “may take notice of proceedings in other
14 courts, both within and without the federal judicial system, if those proceedings have a direct
15 relation to matters at issue.” *United States ex rel. Robinson Rancheria Citizens Council v.*
16 *Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992).

17 A prisoner’s complaint is considered frivolous under 28 U.S.C. § 1915A(b)(1) if it
18 “merely repeats pending or previously litigated claims.” *Cato v. United States*, 70 F.3d 1103,
19 1105 n.2 (9th Cir. 1995) (construing former 28 U.S.C. § 1915(d)) (citations and internal
20 quotations omitted). Because Plaintiff is already litigating the same claims presented in the
21 instant action in *Keeler v. Quirk*, S.D. Cal. Civil Case No. 08-0076 JAH (PCL), the Court hereby
22 **DISMISSES** Civil Case No. 08-0206 JLS (JMA) pursuant to 28 U.S.C. § 1915A(b)(1). See
23 *Cato*, 70 F.3d at 1105 n.2; *Resnick*, 213 F.3d at 446 n.1.

1 **II. Conclusion and Order**

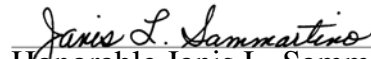
2 Good cause appearing, **IT IS HEREBY ORDERED** that:

3 Plaintiff's Complaint in Civil Case No. 08-0206 JLS (JMA) is **DISMISSED** as frivolous
4 pursuant to 28 U.S.C. § 1915A(b)(1). Plaintiff's Motion to Proceed IFP [Doc. No. 2] is
5 **DENIED** as moot.

6 The Clerk shall close the file.

7 **IT IS SO ORDERED.**

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9 DATED: March 6, 2008

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11 Honorable Janis L. Sammartino
12 United States District Judge
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